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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 United States of America,  
10 Plaintiff,

11 v.

12 Denali Water Solutions LLC,  
13 Defendant.  
14

No. CV-24-03084-PHX-DWL  
**ORDER**

15 The United States initiated this action on November 7, 2024, by filing a complaint  
16 against Denali Water Solutions LLC (“Defendant”). (Doc. 1.) The complaint alleges that,  
17 between January 2016 and August 2024, Defendant violated certain federal laws and  
18 regulations governing the management and land application of sewage sludge. (*Id.*) The  
19 only specific remedies sought in the complaint are (1) an award of civil penalties and (2)  
20 an award of costs. (*Id.* at 10.)

21 As it turns out, the filing of the complaint did not mark the beginning of a live  
22 dispute between the United States and Defendant. At the same time it filed the complaint,  
23 the United States filed a lengthy proposed consent decree it had already negotiated with  
24 Defendant: “[T]his Consent Decree has been negotiated by the Parties in good faith and  
25 will avoid litigation between the Parties . . . .” (Doc. 3-1 at 3.) The proposed consent  
26 decree calls for Defendant to make a one-time civil penalty payment of \$610,000 to the  
27 United States. (*Id.* ¶ 7.) The proposed consent decree also calls for Defendant to follow  
28 certain “Compliance Requirements” and “Reporting Requirements” and, potentially, to

1 hire a “Third-Party Auditor” to verify Defendant’s compliance. (*Id.* ¶¶ 11-41.)

2 The only other litigation activity in this case, other than the filing of the complaint  
3 and proposed consent decree on November 7, 2024, occurred on January 3, 2025, when the  
4 United States filed an unopposed motion for approval of the consent decree. (Doc. 4.) The  
5 motion notes that “[i]n accordance with 28 C.F.R. § 50.7, the United States published  
6 notice of the proposed Decree in the Federal Register on November 14, 2024, for a thirty-  
7 day public comment period. The United States received no comments.” (*Id.* ¶ 1, citation  
8 omitted.)

9 If the Court were writing on a blank slate, it would have serious questions about  
10 whether this action ever presented the sort of “case or controversy” necessary to create  
11 subject-matter jurisdiction. Essentially, the parties arrived together in court with a pre-  
12 negotiated settlement agreement, with the sole shared objective of obtaining judicial  
13 approval over that agreement. Other courts have raised thoughtful questions about the  
14 constitutional permissibility of this practice. *Lexington Ins. Co. v. Ambassador Group*  
15 *LLC*, 581 F. Supp. 3d 863, 865-66 (W.D. Ky. 2021) (“A consent decree is a strange hybrid  
16 in the law . . . [that] enjoys a privileged . . . position among the ranks of permissible judicial  
17 remedies. Certainly the law of this circuit tolerates, and even favors, their use in order to  
18 speed the resolution of the cases and controversies on federal dockets . . . [b]ut once the  
19 parties reach agreement, would the underlying disputes even qualify as ‘Cases’ and  
20 ‘Controversies’ as used by the framers of Article III? And could justice proceed just as  
21 swiftly based on private settlement agreements alone? These are important constitutional  
22 questions whose answers are not obvious.”) (citations omitted).

23 But the Court does not write on a blank slate. The Ninth Circuit has suggested that  
24 a district court has subject-matter jurisdiction over a request to approve a proposed consent  
25 decree even if “the parties arrived in court with the proposed judgment in hand.” *SEC v.*  
26 *Randolph*, 736 F.2d 525, 528 (9th Cir. 1984). The Court is bound to follow *Randolph*.  
27 *Hasbrouck v. Texaco, Inc.*, 663 F.2d 930, 933 (9th Cir. 1981) (“District courts are bound  
28 by the law of their own circuit . . . no matter how egregiously in error they may feel their

1 own circuit to be.”).

2 On the merits, Ninth Circuit law holds that a proposed consent decree “ought to be  
3 approved” unless it “is unfair, inadequate, or unreasonable.” *Randolph*, 736 F.2d at 529.  
4 Additionally, courts must “pay deference to the judgment of the government agency which  
5 has negotiated and submitted the proposed judgment.” *Id.* See also *United States v. State*  
6 *of Or.*, 913 F.2d 576, 580 (9th Cir. 1990) (“Before approving a consent decree, a district  
7 court must be satisfied that it is at least fundamentally fair, adequate and reasonable. In  
8 addition, because it is a form of judgment, a consent decree must conform to applicable  
9 laws.”) (citations omitted).

10 The Court will confess that, because it has had exactly zero involvement overseeing  
11 any contested litigation in this case, it is difficult to evaluate whether the proposed consent  
12 decree is unfair, inadequate, or unreasonable. For example, the government states that “[i]n  
13 determining whether a Consent Decree is substantively fair, courts also consider the  
14 strength of the plaintiff’s case and the risks posed by litigation.” (Doc. 4-1 at 7.) But it is  
15 challenging, to put it mildly, for a court to evaluate the strength of the plaintiff’s case when  
16 there has never been any evidentiary or adversarial presentation. At any rate, in light of  
17 the highly deferential standards set forth in *Randolph* and *State of Oregon*, and because  
18 nothing on the face of the proposed consent decree seems out of the ordinary, the Court  
19 concludes that the standard for approval has been satisfied. Cf. *Lexington Ins. Co.*, 581 F.  
20 Supp. 3d at 870 (“Despite the uneasy relationship between consent decrees and federal  
21 courts’ limited Article III jurisdiction, the law of this circuit . . . authorize[s] and—on this  
22 Court’s reading, at least—effectively compel[s] approval of the parties’ proposed  
23 resolution, which satisfies the requirements articulated in this Circuit’s precedents.”).

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1 Accordingly,

2 **IT IS ORDERED** that the United States' unopposed motion to approve consent  
3 decree (Doc. 4) is **granted**. The Court hereby enters the consent decree (Doc. 3-1) as an  
4 order of the Court. The Clerk of Court shall terminate this action.

5 Dated this 10th day of January, 2025.

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Dominic W. Lanza  
United States District Judge